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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 RENE DE LIVA PALACIOS,  
12 BOP #03562298,

13 Plaintiff,

14 vs.  
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16  
17 UNKNOWN NATIONAL CITY POLICE  
18 OFFICERS, et al.,

19 Defendants.  
20  
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Civil No. 07-2115 JAH (CAB)

**ORDER:**

(1) **DISMISSING CIVIL ACTION  
AS DUPLICATIVE PURSUANT TO  
28 U.S.C. § 1915A(b)(1); and**

(2) **DENYING MOTION TO PROCEED  
IN FORMA PAUPERIS AS MOOT  
[Doc. No. 2]**

22 Plaintiff, a federal inmate currently incarcerated at the Federal Correctional Institution  
23 located in Edgefield, South Carolina and proceeding pro se, has filed a civil rights Complaint  
24 pursuant to 42 U.S.C. §1983.<sup>1</sup> Plaintiff has not prepaid the \$350 filing fee mandated by 28  
25 U.S.C. § 1914(a); instead, he has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant  
26 to 28 U.S.C. § 1915(a) [Doc. No 2].  
27

28 <sup>1</sup> The proceedings were assigned to this Court, but all post-service matters have been referred to Magistrate Judge Cathy Ann Bencivengo by Local Rule 72.3(e), “Assignment of § 1983 Prisoner Civil Cases to United States Magistrate Judges,” pursuant to 28 U.S.C. § 636.

1 **I. Sua Sponte Screening Pursuant to 28 U.S.C. § 1915A(b)**

2 The Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915A, obligates the Court to  
3 review complaints filed by anyone “incarcerated or detained in any facility who is accused of,  
4 sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions  
5 of parole, probation, pretrial release, or diversionary program,” “as soon as practicable after  
6 docketing” and regardless of whether the prisoner prepays filing fees or moves to proceed IFP.  
7 See 28 U.S.C. § 1915A(a), (c). The Court must sua sponte dismiss prisoner complaints, or any  
8 portions thereof, which are frivolous, malicious, or fail to state a claim upon which relief may be  
9 granted. 28 U.S.C. § 1915A(b); *Resnick v. Hayes*, 213 F.3d 443, 446-47 (9th Cir. 2000).

10 Plaintiff’s instant Complaint is subject to sua sponte dismissal pursuant to 28 U.S.C.  
11 § 1915A(b)(1) because it appears to be duplicative of a civil rights case Plaintiff is already  
12 litigating. Plaintiff’s Complaint contains identical claims and defendants that are found in  
13 *Palacios v. Unknown Named Officers, et al.*, S.D. Cal. Civil Case No. 07-1109 LAB (NLS). A  
14 court “may take notice of proceedings in other courts, both within and without the federal judicial  
15 system, if those proceedings have a direct relation to matters at issue.” *United States ex rel.*  
16 *Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992).

17 A prisoner’s complaint is considered frivolous under 28 U.S.C. § 1915A(b)(1) if it  
18 “merely repeats pending or previously litigated claims.” *Cato v. United States*, 70 F.3d 1103,  
19 1105 n.2 (9th Cir. 1995) (construing former 28 U.S.C. § 1915(d)) (citations and internal  
20 quotations omitted). Because Plaintiff has already litigated the same claims presented in the  
21 instant action in *Palacios v. Unknown Named Officers, et al.*, S.D. Cal. Civil Case No. 07-1109  
22 LAB (NLS), the Court hereby **DISMISSES** Civil Case No. 07-2115 JAH (CAB) pursuant to 28  
23 U.S.C. § 1915A(b)(1). See *Cato*, 70 F.3d at 1105 n.2; *Resnick*, 213 F.3d at 446 n.1.

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1 **II. Conclusion and Order**

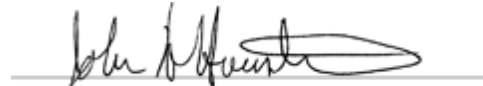
2 Good cause appearing, **IT IS HEREBY ORDERED** that:

3 Plaintiff's Complaint in Civil Case No. 07-2115 JAH (CAB) is **DISMISSED** as frivolous  
4 pursuant to 28 U.S.C. § 1915A(b)(1). Plaintiff's Motion to Proceed IFP [Doc. No. 2] is **DENIED**  
5 as moot.

6 The Clerk shall close the file.

7 **IT IS SO ORDERED.**

8 DATED: November 6, 2007



HON. JOHN A. HOUSTON  
United States District Judge

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